

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>JOHN GOFF, et al.,</b>	)	
	)	
<b>Plaintiffs,</b>	)	
	)	
v.	)	<b>CASE NO. 2:06-CV-389-SRW</b>
	)	
<b>PHOENIX-DURANGO, LLC, et al.,</b>	)	
	)	
<b>Defendants</b>	)	
<b>and Counterclaim Plaintiffs,</b>	)	
	)	
v.	)	
	)	
<b>JOHN GOFF, et al.,</b>	)	
	)	
<b>Counterclaim Defendants.</b>	)	

**ANSWER OF COUNTERCLAIM DEFENDANT  
ARTHUR M. LEADINGHAM**

COMES NOW Counterclaim Defendant Arthur M. Leadingham (hereinafter "Leadingham"), by and through the undersigned counsel, and for an Answer to Counterclaim Plaintiff Phoenix-Durango, LLC's Counterclaim, would state and Answer as follows:

**Parties**

1. Based on best information and belief, Leadingham admits the averments of this paragraph.
2. Based on best information and belief, Leadingham admits the averments of this paragraph.
3. Based on best information and belief, Leadingham admits the averments of this paragraph.

4. Based on best information and belief, Leadingham admits the averments of this paragraph.

5. Leadingham admits that he is an individual who resides in Alabama, and that he holds a mortgage on the subject property.

6. Based on best information and belief, Leadingham admits the averments of this paragraph.

7. Based on best information and belief, Leadingham admits the averments of this paragraph.

8. Based on best information and belief, Leadingham admits the averments of this paragraph.

9. Based on best information and belief, Leadingham admits the averments of this paragraph.

10. Based on best information and belief, Leadingham admits the averments of this paragraph.

11. Based on best information and belief, Leadingham admits the averments of this paragraph.

12. Based on best information and belief, Leadingham admits the averments of this paragraph.

13. Based on best information and belief, Leadingham admits the averments of this paragraph.

14. Based on best information and belief, Leadingham admits the averments of this paragraph.

15. Based on best information and belief, Leadingham admits the averments of this paragraph.

16. Based on best information and belief, Leadingham admits the averments of this paragraph.

17. Based on best information and belief, Leadingham admits the averments of this paragraph.

18. Based on best information and belief, Leadingham admits the averments of this paragraph.

19. Based on best information and belief, Leadingham admits the averments of this paragraph.

20. Based on best information and belief, Leadingham admits the averments of this paragraph.

21. Based on best information and belief, Leadingham admits the averments of this paragraph.

**Jurisdiction**

22. Leadingham admits the averments of this paragraph.

23. Leadingham admits that Phoenix-Durango removed this action from the state court to this Court on or about April 28, 2006. Leadingham is without sufficient information to admit or deny the remaining averments of this paragraph, and so denies the same and demands strict proof thereof.

24. Leadingham is without sufficient information to admit or deny the averments of this paragraph, and so denies the same and demands strict proof thereof.

25. Leadingham is without sufficient information to admit or deny the averments of this paragraph, and so denies the same and demands strict proof thereof.

26. Leadingham is without sufficient information to admit or deny the averments of this paragraph, and so denies the same and demands strict proof thereof.

**Factual Background**

27. Leadingham adopts the responses made heretofore as if fully set forth *in extenso*.

28. Based on best information and belief, Leadingham admits the averments of this paragraph.

29. Based on best information and belief, Leadingham admits the averments of this paragraph.

30. Based on best information and belief, Leadingham admits the averments of this paragraph.

31. Based on best information and belief, Leadingham admits the averments of this paragraph.

32. Leadingham is without sufficient information to admit or deny the averments of this paragraph, and so denies the same and demands strict proof thereof.

33. Based on best information and belief, Leadingham admits the averments of this paragraph.

34. Based on best information and belief, Leadingham admits the averments of this paragraph.

35. Leadingham is without sufficient information to admit or deny the averments of this paragraph, and so denies the same and demands strict proof thereof.

**COUNT ONE – JUDICIAL FORECLOSURE**

36. Leadingham adopts the responses made heretofore as if fully set forth *in extenso*.

37. Leadingham is without sufficient information to admit or deny the averments of this paragraph, and so denies the same and demands strict proof thereof.

38. Leadingham admits that if the subject property is judicially foreclosed, then Leadingham is entitled to be paid for the amount of his mortgage on the subject property. Leadingham affirmatively states that he holds the third mortgage on the subject property, in the amount of \$75,000.

Leadingham takes no position on the relief sought in the *ad damnum* clause of Count One of Phoenix-Durango, LLC's Counterclaim.

**COUNT TWO – BREACH OF CONTRACT**

39. Leadingham adopts the responses made heretofore as if fully set forth *in extenso*.

40. The averments of this paragraph are not directed at Leadingham, and hence no response is required. To the nature and extent that the averments of this paragraph may seek to impose liability upon Leadingham, Leadingham denies the same and demands strict proof thereof.

41. The averments of this paragraph are not directed at Leadingham, and hence no response is required. To the nature and extent that the averments of this paragraph may seek to impose liability upon Leadingham, Leadingham denies the same and demands strict proof thereof.

Leadingham takes no position on the relief sought in the *ad damnum* clause of Count Two of Phoenix-Durango, LLC's Counterclaim.

**AFFIRMATIVE DEFENSES**

Alternatively, and without waiving the foregoing, Leadingham states and Answers as follows:

**FIRST DEFENSE**

Phoenix-Durango, LLC's Counterclaim fails to state a claim against Leadingham for which relief can be granted.

**SECOND DEFENSE**

Leadingham affirmatively states that he holds the third mortgage on the subject property, in the amount of \$75,000, and that he is entitled to be paid from any judicial foreclosure and sale thereof.

**THIRD DEFENSE**

Leadingham denies any material averments made against him which seek to impose liability therefore against him.

**FOURTH DEFENSE**

Leadingham reserves the right to interpose additional defenses as discovery and factfinding proceeds in this case.

Respectfully submitted this \_\_\_\_ day of June, 2006.

/s/ Jason J. Baird

**JASON J. BAIRD (SJIS No. BAI035)  
COUNSEL FOR ARTHUR M.  
LEADINGHAM**

**OF COUNSEL:**

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**CERTIFICATE OF SERVICE**

I hereby certify that I have served a true and complete copy of the foregoing document upon the following parties by first-class mail, postage prepaid, on this the \_\_\_\_ day of June, 2006:

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/s/ Jason J. Baird  
OF COUNSEL

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